

Modern Transformation of Democratic India in light of Indian Constitution, The Preamble, and its Principles

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Abstract

Knowing how diverse and progressive India is, the founding fathers took note of the lessons, legal anecdotes around the world and from historical precedents before jotting down the complete provisions. This has resulted in India adopting the Constitution which is known for its bulkiest nature and most importantly, the Preamble, in its innocence considered as the jewel set of the Constitution, holding the very soul and key to the Indian Constitution. The Preamble was ingrained as the horoscope of India's sovereign democratic republic. This Article seeks to traverse between the text provisions, the very principles written in the Constitution during the time of freedom struggle to today ever-changing social and public environment. The article is inspired to envision on the aspect of transformative application of constitutional principles, mainly socialism and how it can be applied to today.

Keywords: Equitability, Socialism, Constitution, Preamble, Transformation

Introduction

In the intense words spoken by Panditji Jawaharlal Nehru, in moving Objectives Resolution, that breathed life into the Texts of the Preamble “*We are, at present, standing midway between two eras; the old Order is fast changing, yielding place to the new.*” Often the question persists in the minds of the Indian men and women,

“What should be the best form of a Government?”

“How shall we maintain a government in a diverse country as India?”

“How shall we adapt to the progressive and constantly changing environment of social order?”

Lest we again turn back to time, further to historical writings, precedents, ideas that revolutionised into changing laws and orders basing it on equitability and determination of accountability and transparency from the public officials to native citizens. Today's world is not so different from recognizing change

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subject to amending the existing laws as once quoted by Justice H.R Khanna,² *“The framing of a Constitution calls for the highest statecraft. Those entrusted with it have to realize the practical needs of the government and have, at the same time, to keep in view the ideals, which have inspired the nation. They have to be men of vision, yet they cannot and must not forget the grass roots.”*

The laws are constantly changing, recall the 73rd and 74th amendments of the Indian Constitution in 1992, which create a fortified third tier of the governance i.e. panchayat raj and municipality system, thereby creating a stronger federal decentralisation within India. Besides these, the dynamic politics and pressure groups, which reflect the diversity of interests so much so that brought to the point where the power center has to take heed to the opinion emerging from a relatively small community, which had the power to pull down the government. Triple talak,³ Sabarimala case,⁴ Aadhaar privacy breach issue⁵, LGBTIQ Rights⁶, judicial activism⁷ forcing to fathom deeper into constitutional interpretation to deliver right justice in order to address the broader societal implications and much more witnessed since the last decade. Shifting the focus to a generation of millennials in this decade, causing issues of collective identity, cultural plurality and multicultural society in constitutional democracies and the inherent struggle for recognition and demand for subnational government. The major hindrance is that the strong accord of modern constitutionalism with an idea of ‘national identity’ has become challenging, to sustain/uphold in an increasingly diverse democratic societies. In the unstable cultural-sociological, the rushing of liberal perceptions of State neutrality forces the explicit recognition of common cultural identity, which seems near-to-far impossible for the modern laws to be integrative. Thus, a need ensued for rethinking of modern constitutionalism and uniform laws, in the current scenario, in which demands for recognition of cultural plurality and sub-state demands, are evermore prominent.

Preamble Text: Effectuating the principles of Socialism

Initially, the underlying idea of socialism was deeply rooted within Nehru’s perception of Nationalism, along with others who belonged to Indian intelligentsia, as the concept promised a creation of modern egalitarian society. In the minds of George Bernard Shaw, Beatrice, Sidney Webb and H.G wells emphasized on socialism as an inevitable step in the evolution of democracy. Being cautious and

² Rishabh Shrivastava, Constitutional Philosophy: An Indian Experience, Analysis, (May.23, 2016)

[Constitutional Philosophy: An Indian Experience | THE ANALYSIS \(wordpress.com\)](#)

³ Sayaro Bano vs. UOI, (2017) 9 SCC 1 ; Also Read Pushkraj Deshpande, Triple Talaq, Judgement of Hon’ble Supreme Court and The Most Anticipated Triple Talaq Bill, Mondaq (Jan.30, 2018)

<https://www.mondaq.com/india/divorce/668468/triple-talaq-judgment-of-hon39ble-supreme-court-and-the-most-anticipated-triple-talaq-bill#:~:text=On%20August%2022%2C%202017%2C%20this,Nazeer%20dissented%20with%20the%20majority.>

⁴ Indian Young Lawyers’ Association vs, State of Kerala

⁵ Justice K.S Puttaswamy and Anr vs. UOI, W.P (C) No. 494 of 2012

⁶ Navtej Johar vs. Union of India, W. P. (Crl.) No. 76 of 2016 D. No. 14961/2016

⁷ Golaknath vs. State of Punjab, 1967 AIR 1643, 1967 SCR (2) 762; Kesavananda Bharati vs. UOI, Writ Petition (Civil) 135 of 1970

democratic, it was asserted that change must be acceptable to the majority of the public domain, it must be gradual, and it should be constitutional and peaceful.⁸ Socialism became the only way in Nehru's vision towards restructuring a society of firm political, social, and economic fabric ending the feudal and aristocratic system following vested interest in land and industry in India. Panditji Nehru aims of removing of disparities at the time of laissez-faire capitalism largely adopted during the colonial era, commented, "*I do not see why under socialism there should not be a great deal of freedom for the individual; indeed far greater freedom of conscience and mind, freedom of enterprise and even the possession of private property on a restricted scale. Above all, he will have the freedom which comes from economic security, which only a small number possess today.*"^{9,10} It was envisioned a socialist utopia, building a society where equality of opportunity is the foundation with no inherent existence of differentiation on the basis of caste or class, a promise for everyone to be able to lead a good life. Wealth that is equitably distributed, honour and merit as a reward of hard work and ability, not because of the recognition in the societal class or caste or even wealth. Only after the realization of effectuating those ideals that Nehru confronted the difficulties of exercising those ideals and principles in in the Independent India.

Modern India: The Conclusion

The founding fathers of India, BR Ambedkar and Jawaharlal Nehru strongly emphasized on the inclusive strategies in the post-independent India, the deep notion that discrimination against any community or person of distinction goes against the very ethics of constitution. Antonio Negri's statement, that the 'ethic' of constitutional insurgencies is also 'ethics of transformation', signifying the power, strength, and movement of the multitude toward contradictions of constitutionalism's, characterizing life under constitutional code.¹¹

The differences India is witnessing today, the protest against Citizen Amendment Act 2019, declaration of National Register and the chaos that followed thereafter in the State of Assam, the government's attempt to curb the freedom of speech with the recent incident in Kerala State with amendment to Section 118 of Police Act, Farmers agitation and gathering at the India's capital city, the conspiracy that ensues in every national sensational news, further polluted by the media. All such instances raise a concerns as to whether there is a failed attempt to fulfil the dreams of constitutional democratic and socialist Nation.

⁸ Adam B. Ulam. *Philosophical Foundations of English Socialism* (Cambridge, Mass., 195D, p.74

⁹ Nehru, *Unity of India*, p. 117-118

¹⁰ Elfrieda Nettie Nafziger, *The Development of Jawarharlal Nehru's Political World View*, Department of History, Kansas State University, (1968)

<https://core.ac.uk/download/pdf/33364021.pdf>

¹¹ Adelman, S., Paliwala, A. Voicing suffering and commitment of the intellectual. *Jindal Global Law Review* 9, 315–325 (2018).
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It is important to learn what the Constitution holds and what the Preamble dictates, as it is where all the answers to our struggle towards freedom lies, in its values attained through historical struggles for civil, political, and basic individual rights. Firstly, understanding the kinds of struggles that gave meaning to the constitution and applying those principles to today's relevant struggles. In the year 1949, when Constitution was enforced, it gave a departure to the idea of the Nation that was long considered a dangerous leviathan, where citizens must be protected from. It was clearly portrayed that there was a need for much bigger, than just protection of individual. It was the need to restructure the existing society and adverse customs to modifying towards a transformed egalitarian and democratic country, where principle of freedom and equitable notions are penetrated deep and applied to all classes of individuals, between weaker and stronger, groups and into the spheres of public and private administration.

India's struggle with colonial rule and ills posed in the Indian society has strongly inspired in the making of the Indian Constitution with need to jot down provisions that provide for ways to adopt a transformative approach towards any change and social set-up, like the recognition of SC/STs rights, LGBTQ and triple talak. Numerous provision exemplifies the transformative aims within the Constitution, starting with the Preamble containing the in-depth aspirations of its citizens, with the cherished hopes of liberty, equality, fraternity, and Justice, establishing a secular, democratic, socialist Nation. It was believed that Indian Constitutional machinery were explicitly built to break the social hierarchies and pave the way towards freedom, equality, and justice.¹² Thereby, concluding by stating the values written in the Preamble i.e. LIBERTY, EQUALITY and FRATERNITY, those trinity of values is what drives the Constitution to be transformative, and hold each of them separately is to defeat the core purpose of socialism and democracy.

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¹² RAJEEV BHARGAVA (ED.), OUTLINE OF POLITICAL THEORY OF THE INDIAN CONSTITUTION IN POLITICS AND ETHICS OF THE INDIAN CONSTITUTION, (Oxford University Press, New Delhi, 2008), p. 15. Cited in Alisha Dhingra, Indian Constitutionalism: A Case of Transformative Constitutionalism, ASIAN JOURNAL OF MULTIDISCIPLINARY STUDIES 2(7), (2014), p. 135.

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